

From: Benjamin W. Ritcey
To: Microsoft ATR
Date: 1/15/02 11:12am
Subject: Microsoft Settlement

To whom it may concern,

The Remedy section of the proposed Microsoft settlement lets Microsoft off far too lightly; what seems like fair and open access to Microsoft's APIs, Documentation and Communications Protocols has, in fact, a critical loophole - I can put this no better than Robert Cringely (<http://www.pbs.org/cringely/pulpit/pulpit20011206.html>):

"...Microsoft's greatest single threat on the operating system front comes from Linux -- a non-commercial product -- and it faces a growing threat on the applications front from Open Source and freeware applications.

The biggest competitor to Microsoft Internet Information Server is Apache, which comes from the Apache Foundation, a not-for-profit. Apache practically rules the Net, along with Sendmail, and Perl, both of which also come from non-profits. Yet not-for-profit organizations have no rights at all under the proposed settlement. It is as though they don't even exist.

Section III(J)(2) contains some very strong language against not-for-profits. Specifically, the language says that it need not describe nor license API, Documentation, or Communications Protocols affecting authentication and authorization to companies that don't meet Microsoft's criteria as a business: "... (c) meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business, ..."

So much for SAMBA and other Open Source projects that use Microsoft calls. The settlement gives Microsoft the right to effectively kill these products.

Section III(D) takes this disturbing trend even further. It deals with disclosure of information regarding the APIs for incorporating non-Microsoft "middleware." In this section, Microsoft discloses to Independent Software Vendors (ISVs), Independent Hardware Vendors (IHVs), Internet Access Providers (IAPs), Internet Content Providers (ICPs), and Original Equipment Manufacturers (OEMs) the information needed to inter-operate with Windows at this level. Yet, when we look in the footnotes at the legal definitions for these outfits, we find the definitions specify commercial concerns only. "

The business climate has changed a bit from the time the Tunney Act was introduced -- one does not have to pursue a profit in order to be a competitor. By excluding not-for-profit organization, the Settlement protects Microsoft from their greatest threat, and allows them to continue to stifle innovation.

I urge you to, at the very least, remove these critical loopholes.

Regards,

Benjamin Ritcey